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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,121	08/01/2000	Hao A. Chen	3620-023-01	8367

7590 01/14/2003

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EXAMINER

WATKINS III, WILLIAM P

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 01/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

AS-11

# Office Action Summary

Application No.

09/630,121

Applicant(s)

CHEN ET AL.

Examiner

William P. Watkins III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-21 and 31-53 is/are pending in the application.
- 4a) Of the above claim(s) 34-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 7-21, 31-33, 37-53 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

1. This application contains claims 34-36 drawn to an invention nonelected with traverse in Paper No. 18 April 2002. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 7-21, 31-33, 37-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (U.S. 6,324,809 B1) in view of Spain et al. (U.S. 5,662,977) further in view of Andres (U.S. 5,553,427).

Nelson teaches planks, which can be used to make up a floating floor: which can consist of a core layer, which may be PVC; and a decorative overlay, which may be a high pressure laminate (col. 2, line 50 through col. 3, line 45, col. 2, lines

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1-5). The examiner notes that many options for the top and bottom layers of the core are taught, but that the core being exposed as the bottom surface, with a decorative laminate as the top surface, is a possible taught option (col. 2, lines 50-61). Spain et al. teaches a transfer printed color layer with a protective coating used to decorate a PVC layer (abstract, Figure 6). Andres teaches the use of hollow cavities in a PVC floor plank as well as the use of feet to raise the plank off the floor (Figure 7). The instant invention claims the use of a print layer on the core of a PVC plank in a floating floor with the use of hollow cavities and feet on the planks. It would have been obvious to one of ordinary skill in the art to use a transfer print layer on the plank of Nelson et al. instead of a printed overlay in order to save the expense of construction of the overlay because Spain et al. teaches use of a transfer printing to directly decorate a core layer. It further would have been obvious to use cavities and feet in the planks of Nelson in view of Spain et al. in order to lower the weight and amount of material used in the core and to raise the planks off of the subfloor for the purposes of insulation because of the teachings of Andres. Nelson appears both explicitly and implicitly to teach rectangular planks with no type of cupping. The examiner therefore takes the planks of Nelson as modified

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above to be equivalent to the heat treated planks of the instant claims.

4. Applicant's arguments filed 05 November 2002 have been fully considered but they are not persuasive.

Applicant argues that Nelson '809 does not teach a core without a backing layer. The position of the examiner is that that col. 2, lines 54-60, teach that the upper and lower surfaces of the core can be selected from the upper and lower surfaces (no covering) or from a decorative layer. Thus Nelson teaches no bottom layer and no top decorative layer as options, but has a preference for decoration. Spain et al. teaches a means of decoration without use of a decorative overlay, such an option being compatible with both the possibility of no top layer in Nelson and Nelson's preference for decoration. The examiner sees no difference in the PVC sheet to which a print coat is transferred in Spain et al. and the PVC core in Nelson. Both Spain et al. and Nelson are directed to making surface coverings, though their preferred embodiments may differ in final application. The position of the examiner is that one of ordinary skill in the surface covering art could transfer teachings between the references. Regarding cupping, applicant may submit evidence to contest the examiner's position that the

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laminate of Nelson does not cup even if it does not have a backing layer.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 703-308-2420. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be

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reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



WW/ww

January 13, 2003

**WILLIAM P. WATKINS III  
PRIMARY EXAMINER**